

UNPRECEDENTED OBSTACLES TO THE COMMITTEE'S INVESTIGATION

INTRODUCTION

Since early 1997, when the Committee first began conducting its campaign finance investigation, the Committee encountered unprecedented obstacles, never before faced by a congressional investigation. These obstacles resulted in limited or no access to the most relevant witnesses and caused the Committee to have to subpoena far more materials than it might otherwise have done if faced with cooperating witnesses and cooperating entities.

These obstacles include the following:

- I. To date, 120 witnesses connected with the campaign finance investigation have either fled the country or asserted Fifth Amendment privileges. Many of these witnesses were associates of the central campaign fundraising figures, all of whom refused to cooperate with the committee. Included are: John Huang, Charlie Trie, Johnny Chung, James Riady, Webster Hubbell, Mark Middleton and Melinda Yee. Huang, Trie, Hubbell, Middleton and Yee were all political appointees of President Clinton.
- II. The Committee has been faced with the White House's consistent, six year pattern of dragging out investigations by refusing to turn over relevant documents until threatened with contempt. Furthermore, the White House has on many occasions asserted frivolous privileges which had already been struck down in court. These actions were designed to delay and minimize the effective dissemination of relevant information.
- III. The Committee has been faced with the Democratic National Committee's ("DNC") protracted and disorganized document production which still has not concluded, as well as the DNC's failure to provide any date certain when all records will be produced to either congressional or Justice Department investigators.
- IV. The Committee has been faced with a total lack of cooperation from foreign governments. It has been almost impossible to obtain relevant information and access to witnesses. Furthermore, the Administration has failed to press for any such cooperation which would uncover the original source of the millions in foreign money which flowed into the U.S. political system over the past several years. In addition, the People's Republic of China refused to allow visas to be issued for Committee investigators and the Administration did not press for cooperation in any meaningful way.

I. THE UNPRECEDENTED NUMBER OF WITNESSES WHO REFUSED TO COOPERATE WITH THE COMMITTEE'S INVESTIGATION

In January of 1997, The House Government Reform and Oversight Committee, in accordance with its oversight responsibilities, began an investigation into the allegedly illegal campaign finance activities of the 1996 elections.¹ Since the Committee began its work, it has faced a level of stonewalling and obstruction never before encountered by a Congressional Committee. During the course of the inquiry, the Committee ran into serious roadblocks in its attempts to secure testimony and obtain documents from the White House, the Democratic National Committee, and various witnesses.² In June 1998, eighteen months into the Committee's investigation, the number of witnesses refusing to testify topped one hundred.³ As of the beginning of October, the list had swelled to 120.

The number of potential witnesses who have exercised their Fifth Amendment right not to give testimony that would be self-incriminating now stands at seventy-nine. An additional eighteen witnesses have left the country, and 23 witnesses live overseas and have refused to be interviewed, bringing the total number of non-cooperating witnesses to 120.⁴

On September 24, 1997, the Committee immunized three witnesses on the list who made illegal conduit contributions at the behest of **Charlie Trie** and **Antonio Pan**.⁵ On June 23, 1998, the Committee immunized four additional witnesses relating to DNC fundraisers **Johnny Chung**, **Gene** and **Nora Lum**, and **Ted Sioeng**.⁶ The Senate also immunized several witnesses involved in the His Lai Buddhist Temple fundraiser and other conduit contributions.⁷ However, the bulk of the 120 witnesses have yet to be heard from.

The list of people who are no longer in the country and who refuse to be interviewed include longtime Clinton friends and campaign contributors **James** and **Mochtar Riady**, who control the Lippo Group of Indonesia, **Ng Lap Seng**, the Macau financier who underwrote hundreds of thousands of dollars in illegal contributions

¹ Providing Special Investigative Authorities for the Committee on Government Reform and Oversight, H. Rep. No. 137, 105th Cong., 1st Sess. (1997).

² Congressional Record, May 12, 1998, pp. H3054. Question of Personal Privilege. Remarks made by Government Reform & Oversight Committee Chairman, Dan Burton.

³ Government Reform and Oversight Committee Press Release., *10 New Witnesses Take the Fifth, Total now at 104.*, June 23, 1998.

⁴ See Exhibit 1. Committee Chart detailing the 120 witnesses who have pled the Fifth or fled the country to avoid cooperating with Congressional Investigations into campaign finance.

⁵ House Government Reform and Oversight Committee, Business Meeting: Immunity Vote. September 24, 1997.

⁶ House Government Reform and Oversight Committee, Business Meeting: Immunity Vote. June 23, 1998.

⁷ Final Report of the Committee on Governmental Affairs, S. Rep. No. 167, 105th Cong., 2d Sess., Vol. 2, at 1794-95, 2520.

orchestrated by **Charlie Trie**, and **Antonio Pan**, who was indicted with Trie by the Justice Department on January 28, 1998.

The number of witnesses associated with Trie who have taken the Fifth or refused to cooperate with the investigation totals thirteen.

Over twenty-five friends and family members of **Ted Sioeng** have either exercised their Fifth Amendment rights or left the country to avoid testifying. Sioeng and his network of business associates gave \$400,000 to the Democratic party and another \$150,000 to Republicans.⁸

There are seventeen witnesses associated with **John Huang** who have either taken the Fifth or left the country.

In June 1998, the Committee received notice that twelve employees of Florida businessman **Mark Jimenez** would exercise their Fifth Amendment right not to testify about suspected conduit contributions to the Clinton/Gore campaign.⁹ Jimenez was indicted in September for orchestrating nearly \$40,000 in illegal contributions to the Clinton/Gore campaign and other Democratic campaigns.¹⁰

The list of witnesses who have asserted their Fifth Amendment right not to testify includes a number of Presidential appointees:

- Former White House Deputy Chief of Staff **Mark Middleton**,
- Former Associate Attorney General **Webster Hubbell**,
- Former Deputy Assistant Commerce Secretary **John Huang**, and
- Longtime presidential friend and appointee **Charlie Trie**, who was appointed to the Bingaman Commission on international trade.

During a December 1997 hearing of the Government Reform and Oversight Committee, Chairman Burton asked FBI Director Louis Freeh if the Director had ever seen so many witnesses in a federal investigation invoke the Fifth Amendment or flee the country. Director Freeh responded by comparing the current investigation to his years fighting organized crime in New York:

⁸ For details, see chapter on Ted Sioeng.

⁹ See Letter to Richard D. Bennett, Chief Counsel, from John F. Conroy, June 17, 1998; Letter to Richard D. Bennett, Chief Counsel, from William L. Gardner June 30, 1998 (informing the Government Reform and Oversight Committee that the following individuals will assert their Fifth Amendment Rights: Messrs. Jacob Devalle, William Gearhart, Richard Esparragoza, Manuel Garcia, Reynaldo B. Crespo, Raymond Dos Remedios, David Fried, Louis C. Leonardo, Juan L. Ruiz, Marcelino V. Brontonel, Enrique Sanchez, and Mrs. Ruth S. Ramirez).

¹⁰ Department of Justice Press Release, September 30, 1998.

*“I spent 16 years doing organized crime cases in New York City, and many people were frequently unavailable. . .It went on for quite a while.”*¹¹

The unwillingness of so many witnesses to provide sworn testimony became a serious obstacle to the Committee’s efforts to conduct a thorough investigation and inform the public about the allegations under investigation. The extraordinary number of potential witnesses who either fled the country or invoked their Fifth Amendment rights is a strong indication of the unusual level of illegal activity that occurred during both the 1992 and 1996 election cycles.

Conversely, when witnesses did cooperate with the investigation, the Committee made swift progress. For example, upon granting immunity to three witnesses who made conduit contributions at the request of Charlie Trie and Antonio Pan (**Manlin Fong, Joseph Landon and David Wang**), the Committee received detailed information about these conduit payments and moved swiftly to public hearings.¹² Months later, in June of 1998, the Committee granted immunity to four additional witnesses (**Kent La, Irene Wu, Nancy Lee, and Larry Wong**). Both Nancy Lee and Irene Wu then provided the Committee with important information relating to **Johnny Chung’s** efforts to funnel illegal conduit contributions to Democratic campaigns.¹³

Attached as Exhibit 1 is the entire list of 120 individuals who have invoked the Fifth Amendment, Fled the country, or refused to be interviewed in their home countries.

II. THE WHITE HOUSE

In its oversight capacity the Committee on Government Reform and Oversight previously had the occasion to work with the Clinton White House on document productions pursuant to requests and subpoenas in other investigations, including the White House Travel Office investigation and the “Filegate” investigation. As documented in its reports on these investigations, the Committee was subjected to repeated delays and obstruction throughout its prior dealings with the White House.¹⁴ The Committee prepared for similar tactics during the 105th Congress, yet hoped for greater cooperation from President Clinton’s newly appointed counsel, Charles F.C. Ruff. Unfortunately that

¹¹ *Hearing on Current Implementation of the Independent Counsel Act Before the House Committee on Government Reform and Oversight*, 105th Cong., 1st Sess., 294-295 (1997).

¹² *Hearing on the Conduit Payments to the Democratic National Committee Before the House Committee on Government Reform and Oversight*, 105th Cong., 1st Sess. (1997) (testimony of Manlin Fong, Joseph Landon and David Wang).

¹³ See Depositions of Nancy Lee, Government Reform and Oversight Committee, July 28, 1998; Deposition of Irene Wu, Government Reform and Oversight Committee, July 28, 1998.

¹⁴ House Comm. on Government Reform and Oversight, *Investigation of the White House Travel Office Firings and Related Matters*, H.R. Rep. No. 461, 104th Cong., 2d Sess., 3 (1996); House Comm. on Government Reform and Oversight, *Investigation into the White House and Department of Justice on Security of FBI Background Investigation Files*, H.R. Rep. No. 469, 104th Cong., 2d Sess., 4 (1996).

was not to be the case, and the White House's actions during the document production phase served only to hinder the progress of the Committee's investigation for months. As the Senate Governmental Affairs Committee noted in its report, the White House used the one year deadline for the Senate investigation to drag out the process and stymie the efforts of the Senate to get to the bottom of the campaign finance scandal.¹⁵ Knowing of the penchant for this White House to drag out the investigative process, the House investigation did not agree to such time constraints.

A. White House Responses to Committee Requests

On February 6, 1997, the Chairman met and discussed the Committee's document production needs and expectations with Mr. Ruff, the White House Counsel. In that meeting, Mr. Ruff pledged the White House's cooperation and assured the Chairman that the President was committed to providing all of the documents necessary to the Committee's investigation and would not claim any privileges over any relevant documents in the campaign finance investigation.

Prior to the Ruff meeting, the Committee had already made several document requests to Jack Quinn, who preceded Ruff as White House Counsel. During the 104th Congress, the Committee, under then-Chairman William F. Clinger, sent several campaign finance related document requests to the White House.¹⁶ Requests for documents related to John Huang were first made as early as October 1996. At the beginning of the 105th Congress, Chairman Burton issued a comprehensive request to the White House on January 15, 1997. This request was addressed to both Counsels Quinn and Ruff for documents relating to campaign finance matters.¹⁷

¹⁵ Final Report of the Committee on Governmental Affairs, United States Senate, "Investigation of Illegal or Improper Activities in Connection with 1996 Federal Election Campaigns," 105th Cong., 2d Sess., S. Rpt. 105-167, Volume 1, p. 18-20.

¹⁶ Letter to President Bill Clinton from Chairman William F. Clinger, Jr., House Government Reform and Oversight Committee, Chairman Henry J. Hyde, House Judiciary Committee, and Chairman Bill Thomas, Committee on House Oversight, October 18, 1996 (requesting that documents relating to John Huang's activities at the DNC be released publicly); Letter to President Bill Clinton from Chairman William F. Clinger, October 23, 1996 (requesting information on Jorge Cabrera); Letter to President Bill Clinton from Chairman William F. Clinger, Chairman Bill Thomas, and Chairman Henry J. Hyde, October 25, 1996 (requesting information on John Huang and requesting FEC investigation); Letter to President Bill Clinton from Chairman William F. Clinger, October 31, 1996 (requesting that the President make all records regarding John Huang available to Congress and the public); Letter to Terry Good, Office of Records Management, The White House from Chairman William F. Clinger, Jr., October 31, 1996 (requesting WAVES records for John Huang); Letter to John M. Quinn, Counsel to the President, from Chairman William F. Clinger, November 1, 1996 (requesting WAVES records for John Huang); Letter to John M. Quinn, Counsel to the President, from Chairman William F. Clinger, November 14, 1996 (requesting WAVES records for John Huang); Letter to John M. Quinn, Counsel to the President, from Chairman William F. Clinger, Chairwoman Jan Meyers, House Small Business Committee, Chairman Bill Thomas, House Oversight Committee, Chairman Larry Combest, Permanent Select Committee on Intelligence, Chairman Donald Mazullo, House Subcommittee on Exports, Small Business Committee, November 21, 1996 (relating to SBA withholding of documents at the request of the White House).

¹⁷ Letter to John M. Quinn, Counsel to the President, and Charles F.C. Ruff from Chairman Dan Burton, January 15, 1997. (Exhibit 2)

At the time of the January 15, 1997 Committee request for documents, the White House had already sent three directives to White House staff, instructing them to search for responsive documents.¹⁸ Each directive to search for documents requested that documents be produced no later than November 12, 1996, December 23, 1996 and January 17, 1997, respectively. Thus, the Committee had every reason to believe that a responsible White House interested in expeditiously responding to the campaign finance investigation would promptly turn over relevant records. However, Mr. Quinn wrote to Chairman Burton that the White House was unable to produce documents in the two week time period the Committee requested and that production would be delayed until a meeting time could be arranged with White House officials. One week after Quinn's letter, the White House released a number of responsive documents to the press, without producing them to the Committee.¹⁹ The documents were delivered to the Committee five days after the press received them, setting the tone for the manner in which the White House would respond to Committee requests and subpoenas.

Between January and March 1997, the White House refused to comply fully with any of the Committee's document requests. As a result, on March 4, 1997, the Committee issued a subpoena to the White House for a variety of records relevant to the campaign finance investigation.²⁰ The subpoena called for the production of documents on March 24, 1997. As the White House had been collecting documents since the end of October 1996 -- for almost five months -- the Committee believed the time for production was adequate.²¹

The White House, in March 1997, refused to produce unredacted documents to the Committee until a protocol for the handling of documents was adopted by the Committee.²² The Chairman and Committee staff assured the White House Counsel's Office that the Committee was acting under a protocol approved by the Chairman until the full Committee was able to approve a document protocol. However, the White House would not provide the Committee with unredacted, or what it considered sensitive documents, four months into the investigation.²³

¹⁸ Memorandum to All Staff of the White House, the Office of Administration, the Office of Management and Budget, and all other units of the Executive Office of the President from Jack Quinn, Counsel to the President, Re: Documents Relating to the Lippo Group, Indonesia and Other Matters, October 31, 1996 (Exhibit 3). Memorandum to Executive Office of the President Staff from Jack Quinn, Counsel to the President, Re: Document Request, December 16, 1996 (Exhibit 4). Memorandum to Executive Office of the President Staff from Jack Quinn, Counsel to the President, Re: Follow-up to December 16, 1996 Document Request, January 9, 1997 (Exhibit 5).

¹⁹ Letter to Charles Ruff, Counsel to the President from Chairman Dan Burton, January 31, 1997.

²⁰ Subpoena to Executive Office of the President from Committee on Government Reform and Oversight, U.S. House of Representatives, March 4, 1998 (Exhibit 6).

²¹ Exhibits 3, 4, and 5.

²² Letter to the Chief Counsel Government Reform and Oversight Committee from Lanny A. Breuer, Special Counsel to the President, March 19, 1997.

²³ Letter to Lanny A. Breuer, Special Counsel to the President from Chief Counsel Government Reform and Oversight, March 19, 1997 (Exhibit 7).

The full Committee did approve a formal document protocol on April 10, 1997, yet the White House still would not produce documents to the Committee. The White House claimed that the protocol adopted by the full Committee was not sufficient to protect its documents.²⁴ At one point, the White House Counsel's office even proposed a document protocol which would have required armed guards to stand watch over White House documents. The White House insisted that the Committee conform to its "confidentiality proposal" or what the White House considered appropriate procedures, including mandating the amount of Committee staff to have access to the documents.²⁵ As a coequal branch of government, the Committee could not allow the executive branch to dictate the enforcement of or compliance with a legislative subpoena, or effectively annul the protocol approved by vote of the Committee.²⁶ As for any national security or classified documents, the Committee made arrangements to have such material stored with the House Permanent Select Committee on Intelligence. Only a limited number of staff with proper security clearances were allowed to review the material.

Even while the White House refused to produce documents, the Committee attempted to accommodate the White House and ensure that documents would be forthcoming, by prioritizing the March 4, 1997, subpoena through an April 18, 1997 letter.²⁷ The Committee engaged in extensive, good faith discussions and negotiations to assist the White House in producing documents. By late April, the White House still refused to cooperate and produce all responsive documents. The Committee then issued six targeted subpoenas to the White House, focused on records relating to the Riady family, John Huang, Charlie Trie, Pauline Kanchanalak, Mark Middleton and Webster Hubbell.²⁸

Despite the Committee's best efforts to work with the White House in prioritizing and streamlining requests, by the beginning of May 1997, the White House had not supplied the Committee with all relevant documents, had not informed the Committee which documents were being withheld, and had not provided the Committee with any production or privilege logs. Moreover, many of the documents that were produced to the Committee were redacted so heavily that they were unintelligible.

²⁴ Letter to Chairman Dan Burton from Charles F.C. Ruff, Counsel to the President, April 21, 1997.

²⁵ Letter to Chairman Dan Burton from Charles F.C. Ruff, Counsel to the President, April 25, 1997 (Exhibit 8).

²⁶ Letter to Charles F.C. Ruff, Counsel to the President from Chairman Dan Burton, April 27, 1997.

²⁷ Letter to Lanny A. Breuer, Special Counsel to the President from Chief Counsel Government Reform and Oversight, April 18, 1997 (Exhibit 9).

²⁸ Subpoenas to Executive Office of the President from Committee on Government Reform and Oversight, April 23, 1997 (For records relating to the Riady family/Lippo Group and John Huang); Subpoenas to Executive Office of the President from Committee on Government Reform and Oversight, April 24, 1997 (for records relating to Charlie Trie and Pauline Kanchanalak); Subpoenas to Executive Office of the President from Committee on Government Reform and Oversight, April 29, 1997 (for records relating to Mark Middleton and Webster Hubbell).

B. White House Claims of Executive Privilege and the Committee's Threat of Contempt

1. Claims of Executive Privilege over Documents

In a May 9, 1997, letter to White House Counsel Charles Ruff, Chairman Burton insisted that the White House comply with the Committee's lawful subpoena, or in the alternative claim executive privilege over the documents being withheld and provide the Committee with a privilege log.²⁹ The only valid claim the White House could make for withholding any documents from the Committee in the face of a lawful subpoena would be executive privilege.³⁰ Executive privilege is a doctrine which historically has been exerted "only in the most compelling circumstances, and only after careful review demonstrates that assertion of the privilege is necessary."³¹

In *United States v. Nixon*,³² the Supreme Court for the first time recognized a constitutional basis for executive privilege when it held that "the protection of the confidentiality of Presidential communications has....constitutional underpinnings."³³ However, the Court unequivocally rejected President Nixon's claim to an absolute privilege. Blanket claims, it held, are unacceptable without further, discrete justification, and then only when there is a need to protect military, national security, or foreign affairs secrets. It is only in such cases where the President's claim of privilege should receive deferential treatment in the face of a legitimate claim on materials from another branch of government. The Supreme Court set out this test in *United States v. Nixon* as follows:

However, neither the doctrine of separation of powers, nor the need for confidentiality of high-level communications, without more, can sustain an absolute, unqualified Presidential privilege of immunity from judicial process under all circumstances. The President's need for complete candor and objectivity from advisers calls for great deference from the courts. However, when the privilege depends solely on the broad, undifferentiated claim of public interest in the confidentiality of such conversations, a confrontation with other values arises. Absent a claim of need to protect military, diplomatic, or sensitive national security secrets, we find it difficult to accept the argument that even the very important interest in confidentiality of Presidential communications is significantly diminished

²⁹ Letter to Charles F.C. Ruff, Counsel to the President from Chairman Dan Burton, May 9, 1997.

³⁰ The Constitution does not grant Congress the explicit authority to investigate, neither does it grant the President the specific privilege to withhold information. However, the Supreme Court has held that the legislature and the executive each hold these respective powers as they are implied in the Constitution for the essential functioning of both branches. See, *McGrain v. Daugherty*, 273 U.S. 135 (1927); *United States v. Nixon*, 418 U.S. 683 (1974).

³¹ Memorandum for the Heads of Executive Departments and Agencies from President Ronald Reagan, Procedures Governing Responses to Congressional Requests for Information, November 4, 1982 (hereinafter "Reagan Memorandum").

³² 418 U.S. 683 (1973).

³³ 418 U.S. at 705-06.

by production of such material for in camera inspection with all the protection that a district court will be obliged to provide.

To read the Article II powers of the President as providing an absolute privilege as against a subpoena essential to enforcement of criminal statutes on no more than a generalized claim of the public interest in confidentiality of non-military and non-diplomatic discussions would upset the constitutional balance of ‘a workable government’ and gravely impair the role of the courts under Article III.³⁴

In the matters before the Committee in this investigation, as well as previous investigations, there has never been a situation involving the invocation of executive privilege to protect military, diplomatic, or national security secrets. To the contrary, the White House very promptly has turned over all national security information which the Committee stored in a classified setting and kept confidential. It has been the non-classified and the non-national security records that the White House has balked at providing. Thus, it is ironic; when it comes to protecting national security, the Administration takes far less dramatic measures to keep the information confidential than it does when keeping potentially embarrassing or potentially incriminating information from the Committee.³⁵ Executive privilege was intended to operate in exactly the opposite way.

The Reagan Memorandum on executive privilege, which President Clinton’s counsels have stated they follow, explains that the doctrine should only be invoked to “preserve the confidentiality of national security secrets, deliberative communications that form a part of the decision making process, or other information important to the discharge of the Executive Branch’s constitutional responsibilities.”³⁶ More importantly, the policy under President Reagan was that no privileges were claimed over any matters under investigation. During the Iran-Contra investigations, President Reagan assured the Congress that he would not claim executive privilege over any matters under investigation, nor did he.³⁷ In contrast, President Clinton, while telling the American people he would

³⁴ 418 U.S. at 706,707.

³⁵ It should be noted that despite the White House’s decrying of leaks, White House officials have been notably silent about the stream of leaks from its own Justice Department of classified information over the past year and half in matters involving the “China Plan” and other national security matters connected with the campaign finance investigation. See, Bob Woodward and Brian Duffy, “Chinese Embassy Role in Contributions Probed,” *The Washington Post*, February 13, 1997, p. A1; Bob Woodward, “Top Chinese Linked to Plan to Buy Favor,” *The Washington Post*, April 25, 1997, p. A1; Jeff Gerth, David Johnston and Don Van Natta, “Democrat Fund-Raiser Said to Detail China Tie,” *The New York Times*, May 15, 1998; Roberto Suro, “Chung Alleges DNC Sought Illegal Funds: Justice Dept. Probe Enters New Phase,” *The Washington Post*, June 20, 1998.

³⁶ Reagan Memorandum.

³⁷ During Iran-Contra, President Reagan fully cooperated with Congress and turned over 300,000 White House, State Department, Defense Department, Justice Department and Central Intelligence Agency documents. Congress deposed numerous executive branch officials, including Attorney General Edwin Meese, and executive branch officials testifying before Congress. President Reagan even turned over his personal diaries without asserting executive privilege. Senate Select Comm. on Secret Military Assistance to Iran and the Nicaraguan Opposition, S. Rept. No. 100-216, 100th Cong., 1st Sess. (1987).

fully cooperate with this and other investigations, has repeatedly invoked frivolous privilege claims in order to hamper congressional as well as criminal investigations.

In a memorandum to executive departments and agencies, Special Counsel to the President Lloyd Cutler outlined President Clinton's policy on executive privilege, "[i]n circumstances involving communications relating to investigations of personal wrongdoing by government officials, it is our practice not to assert executive privilege, either in judicial proceedings or in congressional investigations and hearings."³⁸ Despite President Clinton's stated policy, in May 1997, his Counsel refused to provide responsive documents which were "subject to executive privilege."³⁹ The Counsel's Office letter was effectively a claim of executive privilege.

The Committee considered whether to hold the White House in contempt for not responding to the subpoena, but first requested that Mr. Ruff appear before the Committee on May 15, 1997 to explain the White House's position.⁴⁰ It took this threat of contempt of Congress for the White House to begin to comply with the Committee's subpoenas. It was disappointing that it was not until this point that Mr. Ruff said his attention was "focused" on the issue of turning over the documents. In other words, the Committee had to threaten to hold the President's Counsel in contempt before the President would comply both with the law and his own stated policy.

Chairman Burton met with Mr. Ruff on May 16, 1997 to discuss White House document production. At that time, Mr. Ruff agreed to produce a volume of outstanding documents as well as a "privilege log" regarding any documents which were to be withheld from Congress under a claim of privilege. A production of the withheld documents followed this agreement. Some of the withheld documents included records such as a number of memos between and among members of the White House Counsel's office. The memos related to statements made by Deputy Counsel Bruce Lindsey regarding the President's meetings with James Riady and John Huang.⁴¹ These memos demonstrated there had been a dispute between White House Special Counsel Jane Sherburne and White House Deputy Counsel Bruce Lindsey in characterizing the President's contacts with James Riady and John Huang.

Ms. Sherburne wrote that in October 1996, she learned from DNC General Counsel Joe Sandler that Huang had refused to tell him "about one of the subjects that had been discussed in his September 1995 meeting with the President, Bruce and Riady. I asked Bruce if he had any idea what Huang was withholding and Bruce told me that they

³⁸ Memorandum for All Executive Department and Agency General Counsels from Lloyd N. Cutler, Special Counsel to the President, Congressional Requests to Departments and Agencies for Documents Protected by Executive Privilege, September 28, 1994.

³⁹ Letter to the Chief Counsel Government Reform and Oversight from Lanny A. Breuer, Special Counsel to the President, May 14, 1997.

⁴⁰ Id.

⁴¹ White House Documents, EOP 008737-41, EOP 004943-47, EOP 007378-82, EOP 004948-50, EOP 00406163, EOP 004956, EOP 008732-36, EOP 004047-48, EOP 037008-17.

had discussed Huang moving from his post in the Commerce Department to a fundraising position at the DNC.”⁴² Sherburne’s memo demonstrated she was concerned that Lindsey refused to be more forthcoming about the Riady/Huang meetings.⁴³ On Lindsey’s copy of Sherburne’s memo Lindsey wrote to then White House Counsel Jack Quinn: “Jack, This is mostly crap” and signed his name.⁴⁴

These memos provided information indicating that Huang did not want to talk about the meetings with the President. This was information that was certainly relevant to the Committee’s inquiry. The fact that the White House Special Counsel was concerned about public representations made by Bruce Lindsey also was relevant to the inquiry. These memos were in no way “privileged” and the fact that the White House Counsel’s office withheld them for close to five months from investigators was not in keeping with the commitment for full cooperation. This was typical of the type of battle the Committee had to regularly engage in with the White House in order to obtain relevant subpoenaed records.

It took another month of extensive negotiations to obtain access to the documents on the privilege log provided to the Committee in June 1997. Ultimately it took the Committee over five months after the first requests to obtain the basic White House records.⁴⁵ These delays in producing documents that the White House had gathered months before are inexcusable. Although the White House’s actions impeded the House investigation, it had an even more dramatic impact on the Senate investigation, which had a strict time deadline.

2. Claim of Executive Privilege over Testimony

Claiming privilege in depositions was another method of White House stonewalling which unduly delayed proceedings. In September 1997, the Committee deposed Deputy White House Counsel Bruce Lindsey.⁴⁶ During the deposition Lindsey testified that he spoke with the President about a conversation between James Riady and the President. When asked a follow up question about his conversation with the President, Lindsey declined to answer on the ground that his answer would implicate executive privilege concerns. Indeed, Lindsey called White House Counsel Charles Ruff on his cell phone in the deposition and reported on their conversation in the deposition record: “And Mr. Ruff informs me – he says that these sorts of conversations give rise to serious executive privilege concerns; that at this time I should not respond, and that he will be happy to discuss it with you after the deposition.”⁴⁷

⁴² White House Documents, EOP 008732-36 at 008734.

⁴³ Id.

⁴⁴ White House Document Production, EOP 008737-41.

⁴⁵ Letter from Charles F.C. Ruff, Counsel to the President to Chairman Dan Burton, May 20, 1997.

⁴⁶ Deposition of Bruce R. Lindsey, Government Reform and Oversight Committee, September 8, 1997 (hereinafter “Lindsey Deposition”).

⁴⁷ Id. at 54.

The Committee subsequently wrote to White House Counsel Charles Ruff regarding Lindsey's claim of privilege.⁴⁸ The Committee pointed out that the question posed to Lindsey involved his discussion with the President about a personal conversation with James Riady. Executive privilege is designed to protect executive branch decision making, not to be used as a shield for personal matters having nothing to do with affairs of state or presidential decision-making. This conversation did not go to any core duties of the President or to national security or other sensitive matters. The White House responded to the Committee, noting that although Lindsey refused to answer, his refusal was based only on the fact that the response may be subject to privilege.⁴⁹ Essentially, the White House made a distinction without a difference, as Lindsey refused to answer the question. After numerous letters and discussions with the White House about Mr. Lindsey's presumptive claim of privilege, Committee attorneys informed the Counsel's office of the Committee's intent to call Mr. Lindsey back for a deposition to answer these and other outstanding questions. It was made clear at the time that the Committee was prepared to proceed with contempt proceedings again if necessary. On April 29, 1998 Lindsey continued his deposition.⁵⁰

It should be noted that at the same time the Committee was having such difficulty in obtaining Mr. Lindsey's testimony on this matter because of his frivolous privilege claims, Mr. Lindsey was asserting the same type of privilege claims in federal court before the Whitewater grand jury.⁵¹

3. The History of the Clinton Administration's Abuse of Privileges

On many occasions over the past several years, the President has inappropriately invoked executive privilege in what many scholars and commentators have noted is a calculated attempt to delay ongoing criminal and congressional investigations. That this is done using government resources is deeply troubling. The President's history of using the White House Counsel to delay includes investigations of the House of Representatives, Senate and various independent counsels.

For example, in November 1995, the White House invoked executive privilege in response to the Senate Whitewater Committee's subpoena.⁵² The privilege claim was over responsive notes taken by former Associate White House Counsel William

⁴⁸ Letter to Charles F.C. Ruff, White House Counsel from Chairman Dan Burton, February 25, 1998.

⁴⁹ Letter to Chairman Dan Burton from Charles F.C. Ruff, White House Counsel, February 26, 1998.

⁵⁰ Deposition of Bruce Lindsey, Committee on Government Reform and Oversight, April 29, 1998.

⁵¹ *Communication from the Office of the Independent Counsel, Kenneth W. Starr transmitting Appendices to the Referral to the United States House of Representatives pursuant to Title 28, United States Code, Section 595c submitted by the Office of the Independent Counsel, September 9, 1998*, House Document 105-311, 105th Cong., 2d Sess., 184-200 (1998).

⁵² Final Report of the Special Committee to Investigate Whitewater Development Corporation and Related Matters, S. Doc. No. 280, 104th Cong., 2d Sess. 237-238 (1996).

Kennedy.⁵³ Ultimately, after the Senate adopted a resolution directing the Senate Legal Counsel to initiate a civil action for an order to produce the documents, the White House acquiesced and produced the notes.⁵⁴ The Senate Committee reported that the notes contained evidence that the White House inappropriately gathered information from various agencies investigating Whitewater, and passed such information to private lawyers for the President and First Lady.⁵⁵

The Committee had a similar experience with the White House during the Travel Office investigation. The White House claimed privilege over more than three thousand pages of documents and refused to produce the documents to the Committee.⁵⁶ After negotiations with the White House failed, the Committee voted on May 9, 1996 to hold then-Counsel to the President Jack Quinn in contempt of its subpoena.⁵⁷ On May 30, 1996, the morning of a scheduled House floor contempt vote, the documents were turned over to the Committee.⁵⁸ Within the documents the White House had claimed executive privilege over were notes White House attorneys had taken of debriefing sessions with witnesses' attorneys.⁵⁹ Perhaps most shocking was a request for former Travel Office Director Billy Dale's FBI background investigation, months after he was fired from the White House.⁶⁰ This document led to the eventual discovery that hundreds of Reagan and Bush appointees' background files were obtained by the Clinton White House. None of these documents were even arguably privileged.

In addition, the President's frivolous legal claims have delayed civil and criminal investigations. Over the past year, the Clinton Administration has litigated, and lost, the following four significant immunity/privilege cases: *Clinton v. Jones*,⁶¹ which held there was no temporary presidential immunity from civil suit for unofficial acts; *In re Grand Jury Subpoena Duces Tecum*,⁶² in which claims of attorney-client and work product privilege asserted by the White House were denied; *In re Sealed Case*,⁶³ in which executive privilege claims of the White House were ultimately overcome by Independent Smaltz's sufficient demonstration of need for the records in question; and, *In re Sealed Case*,⁶⁴ in which White House claims of attorney-client and work produce privilege were denied.

⁵³ Id.

⁵⁴ Id.

⁵⁵ Id.

⁵⁶ House Comm. on Gov't Reform and Oversight, Investigation of the White House Travel Office Firings and Related Matters, H.R. Rep. No. 461, 104th Cong., 2d Sess., 8 (1996).

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ 117 S. Ct. 1636 (1997).

⁶² 112 F.3d 910 (8th Cir. 1997), *cert. denied* 117 S. Ct. 2487 (1997).

⁶³ 116 F.3d 550, *reissued in unredacted form*, 121 F.3d 729 (D.C. Cir. 1997).

⁶⁴ 124 F.3d 230 (D.C. Cir. 1997).

The President's frivolous privilege claims have served him personally in delaying investigations and dragging out the process. However, they have not served the Presidency, which has ultimately been weakened by case after case being decided against the Executive Branch. During the Committee's investigation of the White House Travel Office matter, senior Justice Department official Michael Shaheen testified before the committee that in his 20 year Justice Department career in the Office of Professional Responsibility, "the lack of cooperation and candor" from the Clinton White House was the worst he had experienced. Nothing the Committee experienced in the 105th Congress has changed that perception. While President Clinton has sought short term personal gain, in the long term it is the presidency that has been most harmed by his frivolous privilege claims. This legacy will long outlast any personal matters related to Bill Clinton.

C. Records Highly Relevant to the Campaign Finance Investigation Were Produced Months or Even a Year after White House Certification.

On June 27, 1996, Counsel to the President Charles Ruff certified that the White House produced all documents responsive to the Committee's subpoenas, except those listed on the White House privilege log.⁶⁵ After Mr. Ruff's certification to the Committee, the White House made 36 productions of documents of over 17,700 pages responsive to the Committee's original subpoenas. The White House produced responsive documents as late as July 28, 1998, over a year from the date of the Committee's original subpoenas.

1. Documents Relevant to the Preliminary Investigation of Vice President Gore

The July 1998, document production included memoranda relating to fundraising telephone calls made by Vice President Gore from his White House office.⁶⁶ The fundraising calls were under investigation by the Department of Justice in late 1997. On these belatedly discovered documents were handwritten notations of Gore Deputy Chief of Staff David Strauss.

The notes indicate that there may have been discussions with the President and Vice-President about making phone calls for "hard money" as well as "soft money" for the DNC. The discussions occurred during a meeting, attended by both President Clinton and Vice President Gore, about raising money for the DNC through phone calls by the President and Vice President.⁶⁷ Although there were questions raised regarding the legality of the calls, in December 1997, Attorney General Reno decided that there were no further grounds for investigation of Vice President Gore's fundraising calls under the

⁶⁵ Letter to Chairman Dan Burton from Charles F.C. Ruff, Counsel to the President, June 27, 1997 (Exhibit 10).

⁶⁶ White House Document Production, July 28, 1998, EOP 070968-070973.

⁶⁷ Id.

Independent Counsel Act.⁶⁸ However, at the time neither the Justice Department nor the Committee had knowledge of the White House documents, ultimately produced in July 1998, which would have been directly relevant to the initial inquiry.⁶⁹ In fact, since obtaining the notes, the Justice Department has initiated another preliminary inquiry into the Vice President's phone calls.⁷⁰ This second preliminary inquiry is to determine whether Vice President Gore lied to investigators when he was initially interviewed about his telephone solicitations to donors from the White House and said he had no knowledge of the phone call solicitations being for hard money.

2. White House Communications Agency Videotapes

An additional example of White House delays is the production of the White House videotapes on October 5, 1997. The Committee's March 4, 1997 subpoena clearly includes videotapes in its definition of records.⁷¹ However, the White House claimed that the Counsel's Office had no knowledge of the video taping performed by the White House Communications Agency ("WHCA").⁷² The assertion is not credible as WHCA filmed the President daily, while he was constantly accompanied by White House senior staff. In fact, Deputy Counsel to the President Cheryl Mills, along with her family, was taped by WHCA during a Saturday morning radio address.⁷³

The White House Counsel's Office was specifically asked about video taping at the White House in early August 1997, yet failed to actively address the issue until late

⁶⁸ David Johnston, Reno Rejects a Prosecutor on Clinton and Gore Calls; Bitter, G.O.P. Vows to Fight, N.Y. Times, Dec. 3, 1997, at A1.

⁶⁹ The notes show that during the meeting there was a discussion of raising money for the DNC's media fund. Next to the budget for media is the handwritten notation "65% soft / 35% hard" showing the breakdown of what type of money would be used. There is also a notation with the definition of soft money as "corporate or anything over \$20K from an individual." At issue in the original investigation was whether Gore knew that both hard and soft money would be used in the media fund. Gore told investigators that he believed only soft money would be used. One of Attorney General Reno's explanations for not pursuing an Independent Counsel in December 1997 was Gore's explanation that he believed he was only raising soft money. The newly produced memoranda cast doubt upon his statements. (Exhibit 11).

⁷⁰ David Johnston, *Reno Is Extending Inquiry into Gore and Fundraising*, N.Y. Times, August 27, 1998, at A1.

⁷¹ Paragraph one of the Committee's subpoena to the White House states: For the purpose of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, transcribed, punched, taped, filmed, graphically portrayed, **video or audio taped**, however produced or reproduced, and included, but is not limited to, any writing, reproduction, transcription, photograph, or **video or audio recording**, produced or stored in any fashion. . . . (Exhibit 6).

⁷² White House Compliance with Committee Subpoenas: Hearings Before the House Comm. on Government Reform and Oversight, 105th Cong., 1st Sess., 87-93, 487 (1997). See also, Letter to Chairman Dan Burton and Ranking Minority Member Henry Waxman from Charles F.C. Ruff, Counsel to the President, October 6, 1997.

⁷³ WHCA Videotape of Saturday Morning Radio Address, March 11, 1995.

September after numerous particularized requests from Senate investigators.⁷⁴ The White House search for the videotapes occurred at the same time Attorney General Janet Reno was making her decision about the need for an independent counsel to investigate White House fundraising practices, including the White House coffees.

Charles Ruff, Counsel to the President, testified that he was aware that Attorney General Reno was scheduled to make a decision on an independent counsel on Friday October 3, 1997, and he was told about the existence of the coffee videotapes early in the day of October 2, 1997, shortly before he met with Attorney General Reno.⁷⁵ Despite Mr. Ruff's knowledge of Attorney General Reno's pending decision and his knowledge of the White House coffee videotapes which would be pertinent to her decision, Mr. Ruff failed to tell Miss Reno of the existence of the tapes during their meeting.⁷⁶ When the existence of the videotapes was made public, the Justice Department called a number of members of the White House Counsel's office before the grand jury to explain why these records were withheld.

The tapes are highly relevant to the investigation because they allow one to witness the President interacting with many of the individuals central to the campaign finance investigation, including many individuals who have either invoked their Fifth Amendment right against self incrimination or have left the country.⁷⁷ For those who have refused to cooperate, the videos are the only first-hand information the Committee has on these individuals.

For instance although the Committee was unable to speak with Arief Wiriadinata, an Indonesian landscaper, who along with his wife contributed \$450,000 to the DNC, he is seen greeting the President during a White House coffee. As Wiriadinata shakes the President's hand, he says, "James Riady sent me."⁷⁸ President Clinton answers, "yes, I'm glad to see you."⁷⁹ Even after his statements, no one at the White House or DNC questioned the unusually large contributions. At this time, James Riady was living abroad and he was not eligible to contribute to any federal or state campaigns.

In another video, President Clinton meets with Mark Middleton and Mark Jimenez privately prior to a February 6, 1996, DNC fundraising coffee at the White House.⁸⁰ They

⁷⁴ Deposition of Michael X. Imbroscio, Committee on Government Reform and Oversight, October 16, 1997, 96-97, 149-156.

⁷⁵ White House Compliance with Committee Subpoenas: Hearings Before the House Comm. on Government Reform and Oversight, 105th Cong., 1st Sess., 159 (1997) (testimony of Charles F.C. Ruff).

⁷⁶ Id.

⁷⁷ Those individuals attending the coffees and other taped DNC events include: John Huang, James Riady, Charlie Trie and Wang Jun (a Chinese businessman and arms dealer), Ng Lap Seng (a.k.a. Mr. Wu), Mark Middleton, Johnny Chung and six Chinese businessmen, Pauline Kanchanalak, Ted Sioeng, Arief Wiriadinata, Mark Jimenez, and Roger Tamraz.

⁷⁸ WHCA Video of White House/DNC Fundraising Coffee, December 15, 1995.

⁷⁹ Id.

⁸⁰ Also attending the February 6, 1996 DNC fundraising coffee at the White House was Charlie Trie. Trie brought Wang Jun, head of the Chinese company CITIC, to the White House coffee with the President. A

have a brief conversation about Jimenez's contributions to the Clinton Birthplace Foundation before entering the coffee. Both Middleton and Jimenez have invoked their Fifth Amendment right against self-incrimination in the face of a Committee subpoena, and Jimenez was recently indicted by the Department of Justice on campaign finance related matters.⁸¹ Middleton and Jimenez arranged for Carlos Mersan, an advisor of Paraguayan President Wasmosy, to attend the same coffee.⁸² Mr. Jimenez's wife wrote a \$50,000 check to the DNC two days before the coffee.⁸³ At the time, the Paraguayan President himself was unable to obtain a meeting with President Clinton. In addition, the United States had just de-certified Paraguay because of their record in fighting the narcotics war; de-certification would disqualify the country from certain aid as well. Shortly after the coffee, President Clinton issued a discretionary national interest waiver to Paraguay.

Along with the tapes of the coffees, the Committee requested videos of other fundraising events taped by the White House Communications Agency which were responsive to the Committee's subpoena. One such video shows the President and Commerce Secretary Ron Brown greeting Charlie Trie, Ng Lap Seng (a.k.a. Mr. Wu), Richard Mays, and Ernie Green.⁸⁴ The President greets Trie and states, "Hey Charlie, how are you doing?"⁸⁵ The President eventually gets to Ng Lap Seng, who, Ernie Green explains, hosted a small reception for Ron Brown in Hong Kong. Commerce Secretary Brown appears for a picture with the group and referring to Mr. Wu, tells the President, "big business, helps us everywhere." Brown continues, "This is part of the Trie Team," as Charlie Trie, Ng Lap Seng, several Asian businessmen, Ernie Green and Richard Mays, among others, line up to have their picture taken with Commerce Secretary Brown and President Clinton.⁸⁶ From the setting and circumstances, one can infer that Brown was referring to Trie's fundraising prowess. The tape also shows the intimate relationship Trie had with high-level administration officials. The tape on this event was particularly important because the official records for this event do not show these individuals as attending the event. The videotape tells a different story than the paper record.

CITIC subsidiary, Poly Technologies, is the Chinese company responsible for illegally smuggling thousands of Chinese AK-47 machine guns into California. WHCA Video of White House/DNC Fundraising Coffee, February 6, 1996.

⁸¹ Letter to Chairman Dan Burton from Robert D. Luskin, Attorney for Mark Middleton, February 27, 1997; Letter to Richard D. Bennett, Chief Counsel Committee on Government Reform and Oversight from Abbe D. Lowell, Attorney for Mark Jimenez, October 3, 1997.

⁸² White House Document Production [Committee Bates Numbered] 004409-10 (Exhibit 12). Democratic National Committee Document Production DNC3793399 (Feb. 5, 1996 DNC request for security information noting that Mersan is a guest of Mark Jimenez); CommerceCorp International Document Production CC-H-000573 (Memorandum to Yusuf Khapra at the White House from Sandy McClure for Mark Middleton requesting White House access for Mark Jimenez and Carlos Mersan).

⁸³ Although the check was signed by Carol Jimenez, it was credited to Mark Jimenez with the FEC. Democratic National Committee Document Production, DNC 3064956.

⁸⁴ White House Communications Agency Video, African-American Luncheon Event at the Car barn in Georgetown, November 5, 1995.

⁸⁵ Id.

⁸⁶ Id.

Although these three videos represent only a small sampling of those the Committee has reviewed, they demonstrate the type of information which can be gleaned from them. Although many of the individuals central to the Committee's investigation refuse to cooperate, the videotapes provide insight into the interaction between individuals and the familiarity some witnesses have with high level government officials.

D. Historical Perspective

Although all Congressional Committees involved in investigating the Clinton White House have complained about delays, specious claims of privileges, and general stonewalling tactics, the Committee hoped that the White House would be more cooperative under the new White House Counsel's Office headed by Charles Ruff.⁸⁷ Unfortunately, despite the promises, the level of cooperation was no different under the new leadership of Mr. Ruff.

The Committee reviewed reports from investigations of prior administrations to determine whether the White House's conduct was consistent with that of Republican administrations. The Iran-Contra report stated:

Once our investigation commenced, the White House rose above partisan considerations in cooperating with our far-reaching requests and in ensuring the cooperation of other agencies and departments of the Executive Branch.... Consequently, in compliance with our requests, over 250,000 documents were produced by the White House alone. . . .⁸⁸

During the Iran-Contra investigation, the Reagan White House produced a total of 250,000 documents in approximately six months and claimed no privileges, although many of the documents involved matters of national security.⁸⁹ Likewise, during the October Surprise investigation, all Bush administration executive agencies cooperated fully, and President Bush did not claim any privileges.⁹⁰ In contrast, the Clinton White House took over six months to produce less than 60,000 pages of heavily redacted documents related to fundraising, some of which the President claimed were privileged. The White House

⁸⁷ Senate Special Comm. to Investigate Whitewater Development Corp. and Related Matters, S. Rept. No. 280, 104th Cong., 2d Sess., 11-17 (1996); House Comm. on Gov't Reform and Oversight, Investigation of the White House Travel Office Firings and Related Matters, H.R. Rep. No. 461, 104th Cong., 2d Sess., 3 (1996); House Comm. on Gov't Reform and Oversight, Investigation into the White House and Department of Justice on Security of FBI Background Investigation Files, H.R. Rep. No. 469, 104th Cong., 2d Sess., 4 (1996).

⁸⁸ Senate Select Comm. on Secret Military Assistance to Iran and the Nicaraguan Opposition, S. Rept. No. 216, 100th Cong., 1st Sess., 637 (1987).

⁸⁹ Id.

⁹⁰ The Joint Task Force did not request many records directly from the White House. The majority of the information came from the National Security Agency, Department of Defense, Department of Justice, Federal Bureau of Investigation, and other departments and agencies. In addition, many records came from private individuals. Task Force to Investigate Certain Allegations Concerning the Holding of American Hostages by Iran in 1980, H.R. Rep. No. 1102, 102d Cong., 2d Sess., 15-18 (1993)

produced responsive documents over a year and a half into the investigation, and noted in a letter that it continues to search for relevant documents.⁹¹

During the Iran-Contra investigation, senior White House, Justice Department and National Security officials testified at length without claiming privileges. Even Attorney General Edwin Meese testified about actions taken at the Justice Department regarding Iran-Contra. This cooperation was ongoing even while the White House and Reagan Justice Department had to respond to a massive independent counsel investigation of Iran-Contra matters.

III. THE DEMOCRATIC NATIONAL COMMITTEE

The DNC's refusal to produce relevant information in a timely manner acted as an additional restraint on the Committee's efforts. The Democratic National Committee blamed painfully slow document production on more urgent obligations to other investigations and grand jury subpoenas.⁹² When productions finally arrived the Committee staff was often met with the challenge of decoding illegible documents resulting from the poor quality of photocopying.

In addition, production logs for many documents were never provided to the Committee despite repeated requests. This has made it impossible to ascertain the origin of many key documents. Documents with consecutive Bates numbers were produced weeks apart and were separated by thousands of pages. The DNC offered no reasonable explanation and left the Committee to simply wonder how and why this occurred. The DNC continued to extend promises of cooperation but time and time again the Committee encountered delay after delay. Over a year and a half after receiving the Committee's March 4, 1997, subpoena (preceded by a January 15, 1997 document request), the DNC continues to produce documents with no clear final production date in sight. As late as September 28, 1998, the Committee received a production of four boxes from the DNC.

A. DNC's Inability to Meet Deadlines

The Committee first requested documents from the DNC in January, 1997.⁹³ From the beginning the DNC chose to ignore the Committee's requests and indicated that compliance with the Committee's due dates would be impossible.⁹⁴ After no signs of

⁹¹ Letter to Barbara Comstock, Chief Investigative Counsel, from Lanny A. Breuer, Special Counsel to the President, July 28, 1998.

⁹² Letter to Chairman Dan Burton, House Government Reform and Oversight Committee, from Judah Best, Counsel to the DNC, November 17, 1997.

⁹³ Letter Request to Senator Christopher J. Dodd and Mr. Donald Fowler, from Chairman Dan Burton, House Government Reform and Oversight Committee, January 15, 1997 (requesting documents relating to the Asian Pacific American Working Group and the Asian Pacific American Leadership Council.)

⁹⁴ Letter to Tim Griffin, Senior Investigative Counsel, from Joseph Sandler, Counsel to the DNC, January 22, 1997.

cooperation were forthcoming, the Committee was forced to issue a subpoena for DNC documents on March 4, 1997, with a due date of March 24, 1997.⁹⁵

By April 22, 1997, the DNC had produced little more than nine boxes of documents. The DNC's rate of production was surprising, as it was on notice since before the November 1996 elections that Congress would be investigating the fundraising issues involved in the 1996 federal elections. Nevertheless, partial productions followed, accompanied by constant excuses that resources and staff were needed elsewhere, implying that the Committee's inquiry was labeled a low priority. The Committee was not provided with an indication of when the DNC intended to comply with the subpoena. Over the course of the following six months the DNC provided 127 boxes, which represented a small percentage of the overall production requested by the Committee.⁹⁶ This left the Committee with no real sense that anyone was taking responsibility for complying with the Committee's request.

On September 8, 1997, the Committee sent interrogatories to the DNC regarding the return of certain contributions.⁹⁷ Even though the Committee was entitled to accurate answers to these questions, DNC counsel suggested the information "may largely if not entirely" be found among documents already in the Committee's possession.⁹⁸ This response was unacceptable and unrealistic because the Committee was not provided with production logs; therefore, it would be difficult and extraordinarily time consuming for staff to locate these relevant documents. It was November 1997 before the DNC addressed this issue and agreed to respond to the Committee's interrogatories by November 21, 1997.⁹⁹ To date, the DNC continues to tell the Committee that it cannot estimate when its document production will be completed.

The DNC displayed a propensity to produce significant information just prior to depositions or just after a deposition had been completed. The most glaring example, also reported by the press, was the late "discovery" of significant material from the filing cabinet of DNC Finance Director, Richard Sullivan.¹⁰⁰ The DNC originally claimed that boxes of documents found sitting in a filing cabinet in Richard Sullivan's office were generic Finance Division documents that no one had bothered to search.¹⁰¹ However, these documents proved to be some of the most significant produced, containing

⁹⁵ Subpoena to Democratic National Committee from Government Reform and Oversight, U.S. House of Representatives, March 4, 1997 (Exhibit 13).

⁹⁶ Letter to Judah Best, Counsel to the DNC from Chairman Dan Burton, House Government Reform and Oversight Committee, July 16, 1997 (expressing concern over the slow rate of production exhibited by the DNC).

⁹⁷ Letter to Judah Best, Counsel to the DNC, from Chairman Dan Burton, September 8, 1997.

⁹⁸ Letter to Chairman Dan Burton from Judah Best, Counsel for the DNC, September 15, 1997.

⁹⁹ Letter to Chairman Dan Burton from Judah Best, November 17, 1997.

¹⁰⁰ Bob Woodward, "Senate Probes DNC Files Delay," *The Washington Post*, Aug. 8, 1997, p. A01.

¹⁰¹ On Friday, August 1, 1997, a DNC attorney called the Senate Committee on Governmental Affairs and informed it that a number of the boxes were actually from Richard Sullivan's files. Mr. Sullivan was deposed in May and again in June, and had been the Senate Committee's first witness in public hearings on July 9-10.

Sullivan's handwritten notes, files on Democratic contributors Roger Tamraz and Johnny Chung, and fundraising call sheets prepared for Hillary Rodham Clinton.

Shortly after the DNC produced these documents, the Committee deposed Sullivan. At the time, DNC Chairman Roy Romer stated that the failure to discover the documents earlier was the result of "pure, innocent oversight."¹⁰² However, Richard Sullivan himself said he told Joseph Birkenstock, a lawyer for the DNC's Office of General Counsel, about the documents on the day of his departure from the DNC, "I pointed out to him the boxes in which I assembled the documents from my office with the exception of the file cabinet and I pointed out the file cabinet to him."¹⁰³ The Committee must conclude there was an obvious lack of due diligence in the DNC's search.

The Committee was in a similar situation when it deposed David Mercer, the Deputy Director of the Finance Division on August 21, 1997.¹⁰⁴ The day before his deposition, the DNC produced a box of documents relevant to the questioning of Mercer. The Committee had no alternative but to suffer the inconvenience of bringing Mercer back for additional questioning. To add insult to injury, at the conclusion of the deposition, the DNC provided the Committee with three more boxes of relevant documents. Three days later, four more boxes of relevant documents arrived. On September 5, 1997, the DNC gave the Committee another eight boxes of information, including documents that came from Mercer's own files. The arrival of documents on a serial basis made it impossible to conduct a thorough deposition of Mercer. This pattern of production continued throughout the investigation, and not only made the deposition process more difficult and time consuming, but also brought into question whether the witnesses' testimony was thorough and reliable.

B. Refusal to Provide Production Logs

During the investigation, there were ongoing discussions over whether the DNC would provide production logs to the Committee. Such a log, indicating the origin of the documents produced, would provide some semblance of order to the DNC's randomly assembled documents. In addition, a production log is of particular importance when preparing for depositions. Without a log, it is impossible to know from whose files a document, such as a calendar or phone log, came. For example, a memo in one person's possession could be innocuous but in the hands of another it might raise questions.

The DNC continuously refused to provide the Committee with a complete production log for all documents, claiming that it could not afford to divert personnel to

¹⁰² Bob Woodward, "Senate Probes DNC Files Delay," *The Washington Post*, Aug. 8, 1997. p. A01.

¹⁰³ Deposition of Richard Sullivan before the Senate Committee on Governmental Affairs, September 5, 1997, p. 215.

¹⁰⁴ Deposition of David Mercer before the Committee on Government Reform and Oversight, August 21, 1997.

accomplish the task.¹⁰⁵ The Committee found the DNC's argument of lack of personnel to be disingenuous after detailed handwritten production logs were mistakenly left in a document production to the Committee.¹⁰⁶ The logs included the document identification number, the box number in which the document was located, and a detailed description of the document.¹⁰⁷ Although the DNC had the time to create logs for itself, if its argument are to be believed, the DNC could not afford the staff time to photocopy the logs for the Committee.

Ultimately, the DNC produced an interim log of the contents of the first 66 boxes.¹⁰⁸ However, in one exchange, the Committee was informed that the DNC had no plan for providing any form of production log for material contained in boxes produced subsequent to box 66.¹⁰⁹ The DNC tried to impose an agreement on the Committee that was made by the Senate Committee on Governmental Affairs.¹¹⁰ Although the Senate agreed to forgo production logs, it was under the imposition of a deadline and needed documents on an expedited basis. The Government Reform and Oversight Committee, however, had no such hindrance and would have benefited greatly from the DNC's cooperation.

C. Adoption of Document Protocol

The Committee formally adopted its Document Protocol on April 10, 1997.¹¹¹ The DNC criticized the Protocol claiming it did not provide adequate protection for sensitive documents. Such criticism ignored the provision allowing for the public release of documents only after the Chairman consulted with an Advisory Committee. Prior to the adoption of the protocol, the DNC had produced just over nine boxes of documents and refused to produce certain documents deemed confidential. These documents were under subpoena, and the DNC was legally obligated to produce them. Even though the DNC had no basis for withholding, it allowed the Committee an opportunity to review these "confidential" documents only in the office of the DNC's counsel.¹¹² At this time, there were about 30 boxes of "sensitive" documents that the Committee had not received. It was impossible for staff only to have limited access to these documents and yet be able to compare them to other documents and conduct an effective investigation. The

¹⁰⁵ Letter to Chairman Dan Burton, Committee on Government Reform and Oversight, from Judah Best, Counsel to DNC, November 17, 1997.

¹⁰⁶ The DNC mistakenly left approximately 300 pages of production logs in the boxes of documents. A representative sample is produced as an exhibit. DNC Document Production Log, August 29, 1997 (Exhibit 14) [Democratic National Committee Production Logs].

¹⁰⁷ Id.

¹⁰⁸ Letter to Barbara Comstock, Chief Investigative Counsel, from Judah Best, Counsel to DNC, July 11, 1997.

¹⁰⁹ Letter to Paul Palmer, Counsel to the DNC, from James C. Wilson, Senior Investigative Counsel, July 18, 1997.

¹¹⁰ Letter to Barbara Comstock, Chief Investigative Counsel, from Judah Best, Counsel to the DNC, July 11, 1997 (the Senate Committee agreed to accept productions after box 66 without detailed representations regarding the specific sources of all of those documents).

¹¹¹ Protocol for Documents, April 10, 1997. (Exhibit 15).

¹¹² Letter to Committee from Judah Best, Counsel for DNC, April 18, 1997.

Committee made every attempt to cooperate but the demands made by the DNC were outrageous.

Due to the necessity that the staff review such a large volume of documents, the Chairman again on May 28, 1997, requested that the DNC comply with the Committee's document request.¹¹³ Ultimately, the DNC agreed to produce the confidential documents.¹¹⁴ However, rather than copy the documents in its possession and send them to the committee all at one time, the DNC insisted on producing them in increments. The manner in which the DNC produced documents to this committee is yet another example of footdragging.

D. Alleged Duplication of Senate Efforts

During the course of the investigation the Committee requested to depose certain present and former employees of the DNC. The DNC raised concerns that this would be an unnecessary duplication of the Senate's efforts and suggested that the Committee staff review prior testimony and limit the inquiry to matters not previously covered.¹¹⁵ In many cases involving certain DNC witnesses, the Committee did agree to delay depositions. Although the Committee had no desire to duplicate efforts, in many instances the Senate depositions were not available. Even more important, usually the DNC had produced additional relevant documents relating to an individual after the Senate deposition, which raised further questions. In addition, the Committee needed to interview or depose witnesses who had testified before the Senate because the two investigations had different scopes. Unlike the Senate, the Committee was not limited to the 1996 Presidential Election.¹¹⁶ Therefore, the DNC's objection based on "duplication" was not valid and impeded the effective examination of witnesses.

The various obstruction tactics employed by the DNC hampered the Committee's investigation. The slow response to the Committee's requests and the pattern of delay undercut any promises of cooperation made by the DNC. The failure to produce documents in a timely manner burdened the taxpayers and inconvenienced the DNC's own employees. Despite the DNC's resistance, the Committee uncovered a great deal of information regarding the suspect fundraising practices of the DNC.

IV. FAILURE OF THE CLINTON ADMINISTRATION TO PRESS FOR FOREIGN COOPERATION AND THE FAILURE OF FOREIGN GOVERNMENTS TO COOPERATE

¹¹³ Letter to Judah Best, Counsel for DNC, from Chairman Dan Burton, Committee on Government Reform and Oversight, May 28, 1997.

¹¹⁴ Letter to Chairman Dan Burton, Committee on Government Reform and Oversight, from Judah Best, May 29, 1997.

¹¹⁵ Letter to Barbara Comstock, Chief Investigative Counsel, from Judah Best, July 3, 1997.

¹¹⁶ House Resolution 167.

Shortly before the 1996 federal elections, it was revealed that the DNC had accepted illegal foreign contributions. As time passed, the scope of the infiltration of foreign money was soon realized. Millions of dollars in foreign money were contributed to the DNC from foreign sources. When the Committee pursued its investigation, it found that cooperation stopped at the U.S. borders. In addition, it was difficult to get cooperation from U.S. citizens, many of whom invoked their Fifth Amendment right against self-incrimination, or in the alternative, fled the country. With many important witnesses in the U.S. obstructing the investigation, the cooperation of foreign governments was critical if the identity of the ultimate sources of contributions and the motivation for making illegal contributions were to be revealed.

The nature of the Committee's investigation into contributions from foreign sources necessarily required foreign documents, particularly bank records, as well as the cooperation of witnesses in foreign countries. In order to gain cooperation from such foreign governments, the Committee followed established diplomatic procedures to request assistance in its investigation. Generally, all requests relating to foreign governments would be channeled through the Executive Branch, specifically the Department of State.

The Committee was quickly disappointed in the level of cooperation from both the Clinton Administration and the relevant foreign governments. Although the Clinton Administration adopted a public stance of cooperation, it did almost nothing to assist the Committee, or its own Department of Justice's investigations. The open refusal of some foreign governments to cooperate seems to indicate that the belief that there would be no consequences from the Clinton Administration for non-cooperation.

A. The Clinton Administration

In February 1997 the media reported on a Chinese plan to attempt to infiltrate the U.S. political system.¹¹⁷ In the face of such allegations, President Clinton called for a thorough investigation.¹¹⁸ However, it soon became apparent that the Administration would not adhere to the President's public pronouncement.

One month later in March 1997, during an official visit to China, Vice President Gore dismissed the importance of the campaign finance investigation by telling Chinese Premier Li Peng in a private meeting that, "this in no way would deflect the administration from pursuing its policy of engagement."¹¹⁹ In fact, the Vice President did not even warn

¹¹⁷ Bob Woodward and Brian Duffy, "Chinese Embassy Role in Contributions Probed," *The Washington Post*, February 13, 1997, at A1.

¹¹⁸ Susan Schmidt, "Clinton: New Allegations Warrant Vigorous Probe; President Says He Was Unaware of Focus on Chinese," *The Washington Post*, February 14, 1997, at A12.

¹¹⁹ John F. Harris, "Funds Probe Won't Mar U.S. - China Ties, Gore Says; Dispute Surfaces Over Talks With Beijing Premier," *The Washington Post*, March 26, 1997, at A1.

Li that there would be serious consequences if the allegations were proven true.¹²⁰ Foreign governments could not be faulted for interpreting Vice President Gore's words as a signal that the Administration was not expecting their cooperation.

According to news reports allegations of the Chinese government's role in illegal foreign contributions came from electronic eavesdropping by U.S. intelligence agencies.¹²¹ The Vice President, though, downplayed the significance of those interceptions when he told Li that, "unproven allegations are not significant; what are significant are the facts."¹²² Although the Committee shares the Vice President's view, in order to obtain the facts, foreign governments must assist in acquiring documents sought by the Committee and make witnesses available for interviews.

President Clinton took Vice President Gore's statements a step further when it was publicly revealed that the FBI had evidence that top levels of the Chinese government may have been involved in the illegal contributions.¹²³ Although President Clinton stated that there would be serious consequences in U.S.-China relations if the allegations were true, he went on to suggest that perhaps China was simply trying to increase its lobbying presence in Washington.¹²⁴

B. China Denies Any Involvement in a Plan to Funnel Money into U.S. Elections

The Chinese government has steadfastly denied any role in the funneling of illegal contributions to the DNC. After it was reported that U.S. intelligence agencies acquired evidence of the Chinese government's involvement in the scheme, the Chinese State Information Department said, "[w]e express indignation at the evil actions of those persons within the U.S. government who continue to spread rumors, disrupting and sabotaging Sino-U.S. relations."¹²⁵ The Chinese government even went so far as to insist that U.S. officials should not allow such articles to appear in the press.¹²⁶

While traveling in China this past summer, President Clinton held a joint press conference with Chinese President Jiang Zemin on June 27, 1998. During the press

¹²⁰ An official spokesman, who was present at the meeting between Li and the Vice President, said the Vice President never discussed what would happen if the allegations were proven true. Later, a more senior official who refused to be identified, said the first official statement was erroneous and that the Vice President did say that if the allegations were true, "it's a very serious matter." *Id.*

¹²¹ Bob Woodward and Brian Duffy, "Chinese Embassy Role in Contributions Probed," *The Washington Post*, February 13, 1997, at A1.

¹²² Hilary Stout and Kathy Chen, "Gore Assures China On Bid to Bolster Ties," *The Wall Street Journal*, March 26, 1997, at A3.

¹²³ John F. Harris, "Don't Prejudge China, Clinton Urges; He Says Beijing May Have Sought to Make Voice Heard Here Legally," *The Washington Post*, April 26, 1997, at A16.

¹²⁴ *Id.*

¹²⁵ Marc Lacey; Jack Nelson, "Clinton Tries to Quell China Funds Impact," *Los Angeles Times*, April 26, 1997, at A1.

¹²⁶ *Id.*

conference Jiang Zemin stated that his government had conducted a thorough investigation of the allegations of a Chinese plan and found that there was no such plan.¹²⁷ In response to questions about the Chinese government's denial, President Clinton stated:

[Jiang Zemin] said they looked into that [the campaign finance allegations] and that he was obviously certain. And I do believe him, that he had not ordered or authorized or approved any such a thing, and that he could find no evidence that anybody with governmental authority had done that.¹²⁸

Although President Clinton may have full faith in the assertions of the Chinese government, other administration officials are skeptical. Louis Freeh, Director of the FBI, when asked if he believed Zemin's statement that they conducted an earnest investigation, replied, "I'd like to see his report."¹²⁹ Director Freeh also stated that the FBI has not accepted China's statement and has continued to investigate foreign links with the investigation.¹³⁰

C. The Committee's Attempts to Investigate Overseas Involvement in Illegal Foreign Contributions

In order to conduct a proper investigation, the Committee required the assistance of foreign governments in three areas: production of documents, availability of witnesses, and overseas travel. The Committee attempted to secure the cooperation of foreign governments, through the Clinton Administration, on all three fronts.

1. China

a. Charlie Trie

The first request by the Committee came after Yah Lin "Charlie" Trie's June 24, 1997, interview with Tom Brokaw on "NBC Nightly News." Earlier in 1997, Trie had fled the United States after allegations of his illegal fundraising had surfaced in the press. After the broadcast of the Trie interview, the Committee asked President Clinton to formally petition the Chinese government to make Trie available to the Committee.¹³¹ The Committee received nothing but a perfunctory response¹³² to its requests until Trie made a

¹²⁷ White House Press Conference, Beijing China, Office of the Press Secretary, June 27, 1998.

¹²⁸ "We Can Build a Good Positive Partnership," *The Washington Post*, July 4, 1998, at A20.

¹²⁹ *The Need for an Independent Counsel in the Campaign Finance Investigation*, H. Rep. No. 105-155, 105th Cong., 2d Sess., 138 (1998).

¹³⁰ *Id.*

¹³¹ Letter from Chairman Burton to President Clinton, June 27, 1997.

¹³² The only response from the State Department thus far stated:

Consistent with the Secretary's commitment to provide the maximum possible assistance to Congress in this matter, I am pleased to inform you that, on July 14 the Department communicated to the Chinese Embassy your request that the PRC help

July 27, 1997 appearance on a competing nightly news show, again from China.¹³³ According to the broadcast, Trie had been living in a hotel in Beijing for weeks, registered under his own name.¹³⁴ Just the week before, Chinese officials stated that they did not know whether Trie was in China.¹³⁵

Shortly after the second interview of Trie was broadcast, the State Department contacted the Committee with a telephone number for a Beijing hotel where Trie was supposed to be staying.¹³⁶ The Committee received this information on the same day that Trie was scheduled to check-out and all attempts to contact Trie at that telephone number were unsuccessful. The phone number was absolutely useless to the Committee. Nevertheless, the administration continued to use it as an example of the great lengths it went to cooperate with the investigation.

b. Bank Records

Much of the Committee's investigation is dependent upon securing records of bank accounts showing wire transfers and the general flow of money to and from accounts. In order to show that a contribution was made with foreign money or that it was a conduit payment, one must show from where the money came. In the case of foreign money, the wire transfers normally lead to an overseas account. The Committee is therefore unable to trace the source of such funds without the cooperation of the foreign government.

In December 1997, the Committee attempted to identify the ultimate sources of identified foreign contributions through subpoenas issued to the New York branch of the Bank of China. The subpoena requested the production of records from the Bank of China branches in Macau and Hong Kong along with those from the New York branch. Although the New York branch duly complied, the bank refused to supply records from the Macau and Hong Kong branches on the basis that the production of those documents

facilitate the return of Mr. Trie to the United States for questioning or, at a minimum, make him available for a deposition by the Committee and its staff. We also asked the Chinese Government to treat this matter as a high priority in which Secretary Albright is personally interested.

Letter from Barbara Larkin, Assistant Secretary of Legislative Affairs, to Chairman Burton, July 21, 1997.

¹³³ ABC Nightly News (ABC television broadcast, July 27, 1997).

¹³⁴ Id.

¹³⁵ Id.

¹³⁶ Letter from Barbara Larkin, Assistant Secretary of Legislative Affairs, to Chairman Burton, August 8, 1997. Although the State Department provided the information to the Committee, it is not known how the State Department learned of Trie's location. However, in a later letter to the Committee, the State Department seems to imply that the Chinese government originally supplied the information to the State Department. The letter states, "Chinese Embassy officials recalled, for example, that last summer Beijing provided information pursuant to your Committee's request regarding the whereabouts of Yah Lin "Charlie" Trie. Letter from Barbara Larkin, Assistant Secretary of Legislative Affairs, to Chairman Burton, February 13, 1998.

would violate local laws.¹³⁷ Likewise, the Bank of China denied records requested by the Justice Department Task Force.¹³⁸

c. Visa Requests

In January 1998, the Committee requested visas for four investigators to enter China and Hong Kong. The Chinese Embassy in Washington informed the Committee that it had standing orders from the Chinese Foreign Ministry in Beijing to reject visa requests from any Congressional entity seeking to visit China that is involved in the present campaign finance investigation.¹³⁹

The Committee asked the State Department to intervene and persuade the Chinese government to reconsider its decision. The State Department responded that it had urged the Chinese government to reconsider its decision to deny Committee staff visas, and mentioned Secretary Albright's personal interest in the matter.¹⁴⁰ Not surprisingly, the Chinese government maintained its position on the visas. The State Department made no further attempts to assist the Committee or the Justice Department Task Force in obtaining visas.

In an effort to find alternative methods of meeting with witnesses in China, the Committee made several suggestions to the Administration. On March 9, 1998, Chairman Burton wrote directly to the President, requesting his assistance.¹⁴¹ After receiving no response, the Committee wrote again on March 31, 1998, suggesting that Committee and Justice Department investigators accompany the President on his pending trip to China.¹⁴² Although the President visited China with an entourage of over 1,000, the Committee and Justice Department investigators were not invited.

2. Taiwan

As part of its investigation, the Committee found that it had numerous witnesses to interview in Taiwan. In January 1998, it approached the representative of Taiwan in the United States, the Taipei Economic and Cultural Representative's Office¹⁴³ ("TECRO") about a staff delegation visit to Taiwan. Although TECRO represented that it would assist the Committee, it subsequently decided that the Ministry of Foreign Affairs in

¹³⁷ Letter from Christopher Brady to Committee Counsel, January 13, 1998.

¹³⁸ *The Need for an Independent Counsel in the Campaign Finance Investigation*, H. Rep. No. 155, 105th Cong., 2d Sess., 137 (1998).

¹³⁹ Letter from Chairman Burton to Secretary of State Madeleine K. Albright, February 4, 1998. With the Chinese takeover of Hong Kong in July 1997, the refusal to process the visas extended to Hong Kong as well as China.

¹⁴⁰ Letter from Barbara Larkin, Assistant Secretary of Legislative Affairs, to Chairman Burton, February 13, 1998.

¹⁴¹ Letter from Chairman Burton to President Clinton, March 9, 1998.

¹⁴² Letter from Chairman Burton to President Clinton, March 31, 1998.

¹⁴³ Taiwan does not have an embassy in the United States, as such, TECRO performs many of the functions of an embassy.

Taiwan would not facilitate any meetings in Taiwan. After extensive discussions with the Committee, TECRO agreed to assist the Committee conditioned upon certain “ground rules” that the delegation would follow.¹⁴⁴ The Committee agreed to the ground rules and arrived in Taiwan on March 10, 1998.

A key element of the ground rules was the Committee’s agreement that the American Institute in Taiwan¹⁴⁵ (“AIT”) would coordinate the delegation’s activities working closely with the Republic of Taiwan’s Ministry of Foreign Affairs (“MOFA”). Before the delegation’s arrival, the Committee had requested interviews with approximately 45 individuals living in Taiwan. Upon the arrival of the delegation, AIT had scheduled numerous interviews. However, although MOFA agreed to arrange all requested meetings with government or political party officials, it had not done so. The delegation raised the matter with MOFA officials its first working day. MOFA claimed that it had been unable to secure any meetings with its own government officials. At that point, the delegation obtained permission for AIT to approach Taiwanese government and party officials on its behalf. By March 13th, AIT was able to secure a number of additional meetings for the staff delegation.

The following morning, Saturday, March 14th, MOFA asserted that there had been a number of “press leaks” which made it necessary to hold a press conference for what it termed as “damage control.” However, MOFA did not notify AIT or the delegation of the planned press event. The press conference, which disclosed the names of many potential interviewees, resulted in an outcry from the opposition party and an uproar in the legislature. At that point, the delegation’s mission had been seriously compromised.

Unknown to the Committee, MOFA had written to all prospective interviewees prior to the delegation’s arrival telling them, among other things, that they were under no obligation to cooperate with the delegation and identifying a number of others with whom meetings were sought. In addition, at MOFA’s request, AIT had provided MOFA with daily updates on the delegation’s meeting schedule. Shortly after receiving the updates, the scheduled interviews would be canceled. The Committee could only conclude that MOFA contacted the interviewees to discourage meetings. Efforts by AIT to reschedule the meetings were unsuccessful.

¹⁴⁴ The ground rules included in pertinent part: the Committee would conduct no “investigations” in Taiwan; private meetings would be referred to as “exchanges of opinions on issues of mutual concern arising out of mutual interest in combating illegal activities”; all itineraries shall be transparent; meeting with government officials would be arranged by MOFA and meetings with private individuals would be arranged by the American Institute in Taiwan (“AIT”); and, no subpoenas, signing documents, audio or video recording, photographing; MOFA reserved the right to attend all meetings. Letter from Stephen Chen, TECRO Representative, to Chairman Dan Burton, February 12, 1998.

¹⁴⁵ The United States does not have an embassy in Taiwan. AIT is a quasi-governmental entity which performs many of the functions of an embassy.